

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on February 7, 2001 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Jon Ellingson (D)
Sen. Jim Elliott (D)
Sen. Alvin Ellis Jr. (R)
Sen. Sam Kitzenberg (R)
Sen. Don Ryan (D)
Sen. Debbie Shea (D)
Sen. Mike Sprague (R)
Sen. Mignon Waterman (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Linda Ashworth, Committee Secretary
Eddy McClure, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 344, 2/2/2001
Executive Action: SB 65

HEARING ON SB 344

Sponsor: SEN. JOHN COBB, SD 25, Augusta

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN COBB opened on SB 344. **SEN. COBB** elaborated that SB 344 would increase rates for school transportation contracts. He referred to comparable costs in states adjacent to Montana. **SEN. COBB** submitted additional information regarding Montana transportation costs, **EXHIBIT**(eds31a01).

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Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. DON RYAN asked if the costs would be paid out of a school district's transportation fund. **SEN. COBB** explained that the money would come from the county equalized fund.

Closing by Sponsor:

SEN. COBB closed on SB 344.

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EXECUTIVE ACTION ON SB 65

SEN. JACK WELLS reported that the subcommittee met and prepared a set of amendments for SB 65. He related **SEN. DUANE GRIMES** had also offered an additional amendment. **SEN. WELLS** contended the bill had become a complex issue and asked **Eddye McClure** to explain the different amendments. A grey bill, **EXHIBIT**(eds31a02), was given to the committee to use as reference during the presentation. Information regarding educational goals and duties was also submitted, **EXHIBIT**(eds31a03).

Eddye McClure reported on suggested amendments as referenced on the grey bill, **EXHIBIT** (2). She reminded the committee that the grey bill was not an official bill but an example of the bill with all the proposed changes and amendments.

Using diagrams and charts **Ms. McClure** explained the subcommittee's recommendations for SB 65, **EXHIBIT**(eds31a04). She

clarified the differences between discretionary approval and mandatory approval in reference to tuition. Discretionary approval would lie with the district that would be excepting the child. For example, if a student crossed district or county lines when attending school, the receiving district could deny enrollment to that child. In most cases the school would accept the child because the ANB would accompany the child. Current law states that either the district of residence or the parent would pay tuition. This stipulation would remain the same in SB 65.

Eddye McClure referred to page 5 of the grey bill. She explained that varying amounts of tuition were being charged from district to district. The interim committee developed two entities, parents and districts. Although nothing in the bill states that tuition must be charged, the same amount must be charged for each entity. **EXHIBIT (eds31a05)**

Ms. McClure indicated that mandatory approval requires a district to accept out of district, out of county students. A receiving district could deny the student enrollment only if the district was overcrowded which would affect the accreditation standards of that district. Referring to page 7 of the grey bill she explained the six situations, under current law, that require mandatory approval. Under SB 65 the six issues would be left on the mandatory list but the district of residence would be required to pay.

Ms. McClure expanded on the inequity of current law. Currently if a child would cross the county line to attend another school because it is closer to their home, the state would pay the tuition. If the child would cross a district line to attend another school, the home district would pay the tuition.

SEN. ALVIN ELLIS felt current law handles two identical situations differently reiterating that the state pays if the child crosses the county line but it doesn't pay if the child crosses the district line. He felt that as far as the student was concerned it would be an identical situation.

Eddye McClure indicated that a legal problem would develop when a county line would become more educationally relevant than a district line. The interim committee and subcommittee moved the cross county list from the mandatory list to the discretionary list which would allow the student to bring the ANB with them.

Ms. McClure clarified the definition of a geographic barrier as recommended in **SEN. ELLIS'** amendment **(SB006509.aem)**. Under SB 65 the state would pay if a family would qualify. The

transportation committees of each county would make the decision based on the criteria listed in the amendment.

SEN. JIM ELLIOT asked for clarification on the criteria used for determining a geographic barrier. **SEN. ELLIS** responded that the criteria would be based on one or all of the criteria mentioned in the amendment.

SEN. COBB wondered where the 40 mile number was obtained. **SEN. ELLIS** responded that the number was pulled from the air because the average bus route, according to the Office of Public Instruction, was 29 miles and some routes were over 100 miles.

SEN. ELLIOT felt the distance of travel was immaterial and the length of time in excess of one hour should be substituted.

CHAIRMAN BILL GLASER stated his presumption that the distance would be one-way. **Eddy McClure** agreed the distance stated would be one-way.

Motion/Vote: **SEN. MIGNON WATERMAN** moved that **SB 65 BE AMENDED (SB006509.aem)**. Motion carried unanimously.

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Eddy McClure addressed the "sibling" issue that was brought up in testimony by the Lamott/Bozeman people. That issue contended that if one member of the family must leave the district to attend high school then the younger members of the family may attend the same district. The sub-committee and the interim committee chose to leave the issue on the mandatory list which would mean that the sibling may attend school with the older sibling. The bill would be amended, **(SB 006510.aem)**, **EXHIBIT (eds31a06)**, to require the parent to pay for tuition instead of the district of residence.

SEN. ELLIS reported that a business official from Bozeman had recommended that it would be appropriate to submit an amendment that would adjust the tuition payments based on a comparison of tax bases between the districts. He wondered if the committee would consider devising a formula for this payment.

SEN. MIGNON WATERMAN articulated her concern with formulas that would figure one tax base minus the other tax base. She exhorted that if the parent would choose to send the sibling into another district then the parent should pay. A formula would cause districts to make decisions that would not be in the best interests of the child or the school district.

CHAIRMAN GLASER reminded the committee that the case in Bozeman does not cross county lines. **SEN. ELLIS** agreed that they do not cross county lines so this would be a discretionary situation because the parent could send their child to the Lamott School but chose to send the child with an older sibling to the Bozeman district.

SEN. ED BUTCHER contended that the situation would be the same as a parent choosing to send their child to a private school. The public school would be provided within their district yet the parent would opt to send their child to another school.

SEN. COBB wondered how often this happens in Montana. **SEN. ELLIS** speculated that it was not too uncommon.

SEN. COBB asked Eddy McClure for a recommendation. **Ms. McClure** stated that constitutionally the decisions must be educationally relevant.

SEN. BUTCHER surmised that a large number of students go to a different school district but usually the parent would relocate to the receiving district.

Eddy McClure questioned the cost of transportation. **CHAIRMAN GLASER** clarified that half of transportation money is paid on a county wide basis and the balance of it is matched by the state.

SEN. WELLS said that when dealing with Jefferson County the situation may be different. The transportation in Lamott is automatically taken care of because the Bozeman School District sends a bus to transport the high school students to Bozeman.

SEN. WATERMAN wondered why a student would attend a high school outside their home district. **Ms. McClure** explained that this would occur when there would not be a high school in the home district and the student would have to attend a high school in another district. **SEN. WATERMAN** stated that the key to the issue lies in whether the parent makes a choice to send the child or if the child has to attend. **Ms. McClure** stated that this was a convenient option developed by the legislature as a policy decision.

SEN. DON RYAN reminded the committee that this decision would have a huge financial impact on a small district. The parent should be making the payment because the district would still have a school to maintain.

SEN. WELLS wondered if the receiving district could waive the tuition costs. **Ms. McClure** explained that nothing requires the district to charge tuition but the charging or waiving of tuition must be the same for all entities involved.

SEN. RYAN inferred that if the parent would have to pay tuition then the parent might think twice about the additional cost of sending the child out of district. He felt this would encourage the receiving districts to waive tuition because those districts would want the ANB which would come with the child.

Eddye McClure described court and state placed students. She reported that these students are involuntarily moved around and are placed in districts by a court or state agency. The interim committee and sub-committee made no change. **SEN. RYAN** proposed in an amendment that the state would pick up the cost of placing these students.

SEN. RYAN explained that amendment (**SB06504.aem**), **EXHIBIT (eds31a07)**, would ensure that the state would pay for all students placed out of district or out of county by the courts or state agencies. He suggested that those students would be treated the same as those under the geographic provision.

SEN. RYAN reasoned that many of the state placements involve children placed in foster homes and juvenile detention centers. Many times the parents of those students would be very mobile, leaving districts to pay for a child they had never seen. Since the state had made the decision on the placement of the child, it would become the guardian of the child.

SEN. WATERMAN queried whether the money would come out of the Office of Public Instruction or state agencies such as foster care. **SEN. ELLIS** purported it would come out of the Office of Public Instruction tuition funds.

SEN. ELLIS stated opposition to the amendment, advising that the two issues go forward separately in accordance to the wishes of the interim committee. The interim committee had voiced fear of losing the tuition bill on the cost of the state placed children. He described the cost as being approximately \$750,000.00. He reiterated that at the present time the state was paying 1.3 million dollars in tuition.

SEN. RYAN asked for clarification as to who would pay the tuition for state placed students under current law. **Eddye McClure** stated the district of residence where the parent resides would currently pick up the cost

SEN. BUTCHER wondered if this had happened in the Bitterroot when a family with a large number of special needs foster children moved into the area. **Eddye McClure** reiterated that the state is now paying when students cross the county line. If the students had been identified as special education, the district of residence would pay. If the state places them out of county then the state would pay. She maintained this is current law and would not change unless **SEN. RYAN'S** amendment was adopted.

SEN. ELLIS voiced concern that the proposed amendment would exempt the state from paying any costs. He made clear that the interim committee had hoped the committee would separate the involuntary students from the voluntary.

SEN. WATERMAN asked for the legally defensible justification for the state paying for cross county line placements and not paying for cross district line. She asserted that a legally indefensible situation would arise if left this way.

SEN. BUTCHER indicated that the state would be in charge of state placed students and felt that the money should come out of the state agency that would be in charge of those children. **SEN. ELLIS** reported that the bill would allow the committee to do everything **SEN. BUTCHER** wanted it to do. **Eddye McClure** referred to the auditor's report which made the argument that state placement would be raising the same issues as crossing the county line.

SEN. ELLIS thought that **Lance Melton's** amendment stated that all state placed students would be out of the bill. **Eddye McClure** clarified by saying "out of the bill" meant that current law would not be changed in regards to those children. She stated that at one time they had thought about dealing with these children in a second bill but eventually chose to leave the situation alone.

SEN. WELLS wondered if two separate distinctions could be made between special education students and non-special education students. **Ms. McClure** maintained they are already two separate distinctions. Special education is dealt with differently. A district can not turn down special education students because they belong to the district.

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SEN. WELLS asked **SEN. RYAN** if he would agree to discussing his amendment later in the bill. **SEN. RYAN** agreed to further discussion.

Eddye McClure informed the committee that all six situations under mandatory approval had been discussed. The last thing in the bill would be to determine who pays and how much. She referred to page 9 reiterating that districts do not have to charge tuition. Under SB 65 she explained the proposed costs of tuition. The subcommittee made a few technical changes. A summer survey found a varying of rates of tuition charges across the state. **Ms. McClure** reported that the interim committee had moved tuition from the base to the over base which would save taxpayers money.

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SEN. DUANE GRIMES explained amendment (SB 006508.aem), **EXHIBIT (eds31a08)**. He stated the amendment would allow a formula for determining tuition by taking the taxable value of the parent's residence and multiplying it by the discretionary mills used for education in the receiving school district. This would allow the sending parent to pay what they would normally pay in school taxes if their home was located in the receiving district. He mentioned that he had talked to **Bruce Messinger, Superintendent of Helena Schools,** and **Superintendent Messinger** had not been too concerned with the amendment as long as it was technically sound.

SEN. WATERMAN commented that she had spoken to **Bruce Messinger** and he had not indicated support for this proposal and she would be against the amendment. **SEN. GRIMES** confirmed that it was quite some time ago that he had talked to **Mr. Messinger.**

SEN. WATERMAN felt that the amendment would add an unwanted complexity to the bill.

SEN. BUTCHER maintained that when parents cross county lines it would be no different than a parent that would choose to send their child to a private school. He theorized that many parents in question made the choice to live in another district because of a lower tax base. **SEN. GRIMES** maintained that the bill opens school choice.

SEN. BUTCHER stated that he does see it as school choice and argued that when others become liable for the parent's choice it would penalize taxpayers. **SEN. GRIMES** deferred to the committee's judgement to the fairness of the amendment and stated his support of the bill.

SEN. ELLIS thought the amendment was too complicated and too easy on the parents who would be making the choice to send their children across county lines to another school district. He maintained that the bill encourages choice and all entities

should be treated equally. **SEN. GRIMES** thanked the committee for considering the amendment but given the tenor of the conversation withdrew the amendment proposal.

SEN. WELLS asked for a motion regarding the state placement.

SEN. WATERMAN understood the fiscal note to reflect that the state would pay for both state and court placements as well as geographic placement.

Motion/Vote: **SEN. WATERMAN** moved that **SB 65 BE AMENDED (SB006504.aem)**. Motion carried 13-1 with Cobb voting no.

Motion: **SEN. WATERMAN** moved that **SB 65 BE AMENDED (SB 006510.aem) EXHIBIT (6)**.

Discussion:

Eddye McClure informed the committee that a decision needed to be made regarding the Lamott/Bozeman situation and whether they would stay on the mandatory list and if so who would pay the tuition.

SEN. COBB questioned the cost of transportation. **SEN. WATERMAN** felt the sibling should be allowed to move when the older child goes into the high school district but the parents should pay. She clarified that transportation into the high school district is already being covered since the high school district must send a bus to transport the student into Bozeman.

Vote: **SEN. WATERMAN'S** motion that **SB 65 BE AMENDED (SB006510.AEM)** passed unanimously.

Motion/Vote: **SEN. WATERMAN** moved that **SB 65 BE AMENDED (SB 006501.ace)**, **EXHIBIT(eds31a09)**. Motion carried unanimously.

Motion/Vote: **SEN. WATERMAN** moved that **SB 65 DO PASS AS AMENDED**. Motion carried unanimously.

CHAIRMAN GLASER stated his intention of retaining the subcommittee to monitor the progress of the bill. He advised that the bill would not be reported out of committee until a revised fiscal note was received.

{Tape : 3; Side : A; Approx. Time Counter : 0 - 18}

ADJOURNMENT

Adjournment: 5:05 P.M.

SEN. BILL GLASER, Chairman

LINDA ASHWORTH, Secretary

BG/LA

EXHIBIT (eds31aad)